

Chapter 19.30**CONSTRUCTION SITE EROSION CONTROL****Sections:**

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19.30.010 When Required. All construction sites are subject to this ordinance, except as noted in s. 19.30.010 B.

A. Additional Performance Standards. Additional performance standards defined in s. 19.30.060 are applicable to construction sites if they include any of the following:

1. Are part of a site plan required by chapter 18.45.020; or
2. Land disturbance activity of an area of 15,000 square feet or more of land; or
3. Land disturbance activity on a slope in excess of 20%; or
4. Land disturbance activity that creates a slope in excess of 20% with a vertical elevation change greater than 10 feet from existing ground;
5. Land disturbance activity that modifies an existing drainage way, or
6. Land disturbance activity that fills a closed depression.

B. Exemptions. This ordinance does not apply to the following:

1. A construction project that is exempted by federal statutes or regulations from the requirement to have a National Pollutant Discharge Elimination System permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
2. A project for which the City Engineer has performed a preliminary review of the land disturbing activity and determined that the activity may be exempted from some, or all of the requirements of this ordinance.
3. One and two family home construction, which is currently covered by the Uniform Dwelling Code, unless the land disturbance involves an activity described in s 19.30.010 A (3)(4)(5) or (6).

19.30.020 Definitions. In this chapter:

A. "Best Management Practice" or "BMP" means the structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state.

B. "Construction site" means an area upon which one or more land disturbing construction activities occur. Including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing activities may be taking place at different times on different schedules but under one plan.

C. "Design Storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

D. "Drainage Way" means an area where runoff from adjacent areas either collects or passes through the site, regardless of whether the runoff is from private, public property or road right-of-way. A drainage way under this section may be natural or constructed.

E. "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice, or gravity.

F. "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

G. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

H. "Land disturbing activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.

I. "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

J. "Maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard different from the performance standard specified in this chapter which takes into account the best available technology, cost effectiveness, and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standards and site conditions. MEP applies only when the responsible party has demonstrated to the City Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate.

K. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

L. "Permit" means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

M. "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

N. "Runoff" means storm water or precipitation including rain, snow or ice melt, or similar water that moves on the land surface via sheet or channelized flow.

O. "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

P. "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Q. "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

R. "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

19.30.030 Technical Standards. All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

A. Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

B. Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

C. Technical standards and methods approved by the City Engineer.

19.30.040 Erosion and sediment control performance standards for all sites.

A. Erosion and Sediment Control Practices. The responsible party shall implement erosion and sediment control best management practices at each site where land disturbing activity is to occur that accomplish all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site;
 2. Prevent discharge of sediments as part of site de-watering;
 3. Protect inlets, pipes, ditches, drainage ways, and downstream waters from sediment discharged from disturbed areas.
 4. Stabilize stockpiles or disturbed areas left undisturbed for more than one week.
- Stabilization measures may include silt fence, seeding, containment berms, covering, or other approved measures.

5. Manage the use, storage, and disposal of chemicals, cement and other compounds and materials used in construction to prevent their transport by runoff. Projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

B. Location. The BMPs shall be located so that treatment occurs before runoff exits the site, unless an alternate location is approved by the City Engineer.

C. Implementation. The BMPs shall be implemented as follows:

1. Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
2. Erosion and sediment control practices shall be maintained until final stabilization.
3. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
4. Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
5. BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

19.30.050 Erosion and sediment control plan.

A. The responsible party shall prepare an erosion and sediment control plan for all sites meeting one or more of the conditions specified in s. 19.30.010 A.

B. The sediment control plan shall be prepared consistent with the procedures and requirements specified in the *City of Eau Claire Developer's Handbook*.

C. The erosion and sediment control plan shall include erosion and sediment control practices at each site where land disturbing activity occurs to accomplish to the maximum extent practicable the actions listed in s. 19.30.040 A.

D. The erosion and sediment control plan shall demonstrate compliance with the additional performance standards described in s. 19.30.060, as applicable.

19.30.060 Additional performance standards.

A. Applicability. For sites meeting one or more of the conditions specified in s. 19.30.010 A, the responsible party shall comply with the requirements of s. 19.30.060.

B. Sediment Performance Standards. The following erosion and sediment control practices shall be employed:

1. BMPs that, by design, discharge no more than 5 tons of sediment per acre per year, or to the maximum extent practicable, minimize the sediment load carried in runoff from initial grading to final stabilization.
2. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
3. Notwithstanding Subp. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

C. Preventive Measures. The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation whenever possible, especially adjacent to surface waters.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

D. Location. The BMPs used to comply with this section shall be located so that treatment occurs before runoff exits the site.

19.30.70.1 Permitting Requirements, Procedures, and Fees. A. Permit Required. No responsible party may commence a land disturbing activity meeting one or more of the conditions specified in s. 19.30.010 without receiving prior approval of an erosion and sediment control plan for the site and a permit in the form of a "Grading and Drainage Approval" letter from the City Engineer.

B. Permit Application and Fees. The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of s. 19.30.050, and shall pay an application fee to the City.

C. Permit Application Review and Approval. The City Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The permit review and approval process shall follow the guidelines specified in the *City of Eau Claire Developer's Handbook*.

D. Surety Bond. As a condition of approval and issuance of the permit, the City Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions.

E. Permit Requirements. All permits issued under this ordinance shall be subject to the conditions specified in the *City of Eau Claire Developer's Handbook*, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following procedures detailed in the *City of Eau Claire Developer's Handbook*. An action by the City Engineer to suspend or revoke this permit may be appealed in accordance with s. 19.30.100.

F. Permit Conditions. Permits issued under this section may include conditions established by the City Engineer in addition to the requirements set forth in the *City of Eau Claire Developer's Handbook*, where needed to assure compliance with the performance standards in s. 19.30.040 or s. 19.30.060.

G. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the City Engineer notifies the responsible party that all erosion and sediment control practices have passed the final inspection required by the *City of Eau Claire Developer's Handbook*, unless one of the following conditions occurs:

1. work is not initiated within one year of permit issuance, or
2. work is idle for 12 consecutive months, or
3. work is not completed within 3 years of permit issuance.

H. Maintenance. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

19.30.080 Inspections. If land disturbing construction activities are occurring, including those not requiring a permit under this ordinance, the City Engineer may enter the land pursuant to the provisions of s. 66.0119 (1), (2), and (3), Wis. Stats.

19.30.090 Enforcement. Any land disturbing activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance. The City Engineer shall respond to non-compliance with this ordinance in accordance with the procedures and authorities described in the *City of Eau Claire Developer's Handbook*.

19.30.100 Appeals. A. Plan Commission. The Plan Commission, created pursuant to Title 18 of the City of Eau Claire ordinances pursuant to s. 62.23 (7)(e), Wis. Stats., shall hear and decide appeals where it is alleged that there is an error in any order, decision or determination made by the City Engineer in administering this ordinance. The commission shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the commission may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

B. Who May Appeal. Appeals to the Plan Commission or may be made by any aggrieved person or by any office, department, board, or bureau of the City of Eau Claire affected by any decision of the City Engineer.